

Air Permit Fees—Additional Information

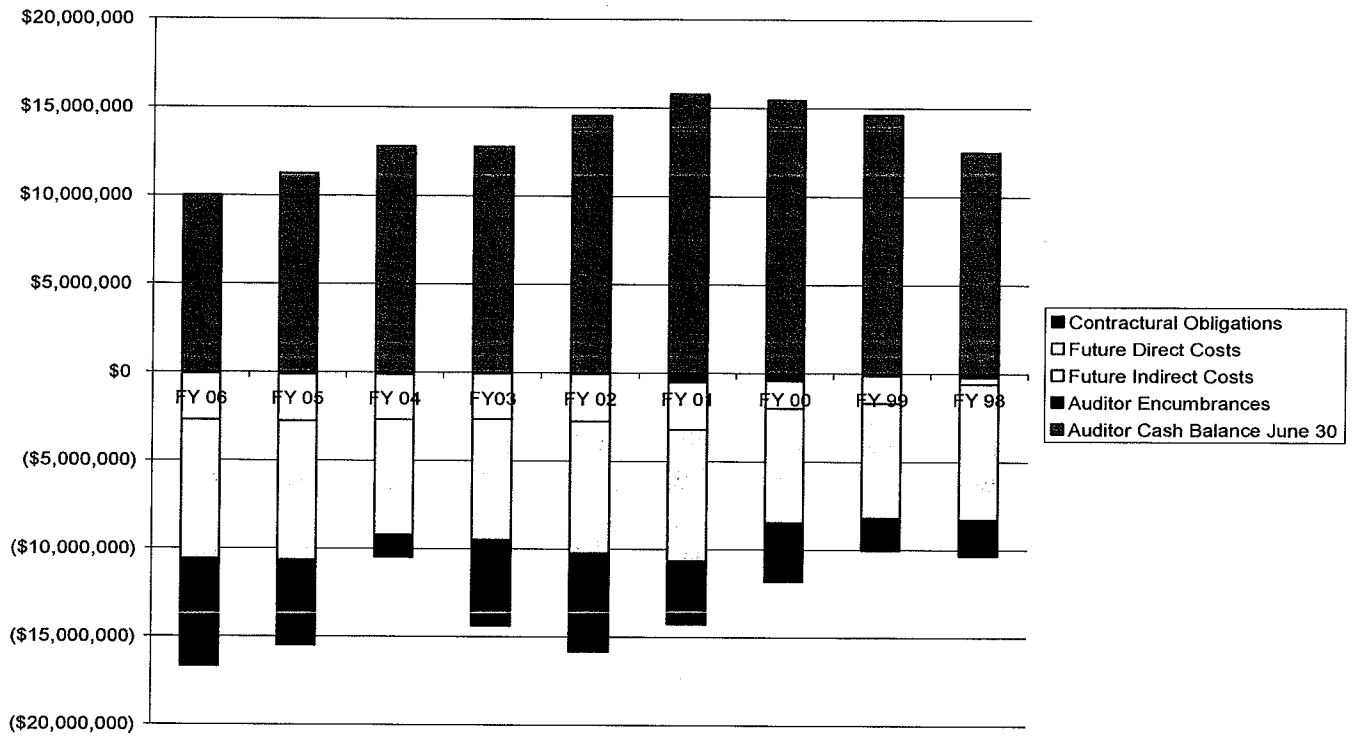
1. The Clean Air Act Amendments of 1990 {502 (b)(3)(A)} require each State to establish air permit fees that fully covered all reasonable costs of the air permit program including:
 - (i) reviewing and acting upon any application for such a permit,
 - (ii) implementing and enforcing the terms and conditions of each permit (not including any court costs or other costs associated with any enforcement action)
 - (iii) emissions and ambient monitoring
 - (iv) preparing generally applicable regulations, or guidance
 - (v) modeling analyses, and demonstrations, and
 - (vi) preparing inventories and tracking emissions.
2. The Act requires the level of the fee to be either:
 - a) \$25 per ton of regulated pollutant emitted (except CO) up to 4,000 tons per pollutant per year, and that these amounts be adjusted for inflation based the increase in the CPI above the 1989 base set by the Act, or
 - b) A lesser amount that the State demonstrates is adequate to meet items (i) through (vi) listed above.
3. Indiana elected option b and came up with a series of permit fees including a fee cap of \$150,000 per facility (\$200,000 per facility in the severe ozone Nonattainment area—e.g. Lake and Porter Counties). This fee schedule was intended to collect \$13.7 million per year (also adjusted for inflation which equals about \$18.1 million in 2006 versus a 1995 base). There is also a provision that if the minimum balance in the fund, once obligated expenditures are subtracted from the fund, exceeds \$3 million; the balance in excess of \$3 million is to be refunded by crediting that amount against the fees billed in the next year. This fee reduction process has occurred once in the history of the fund (FY 97).
4. Since fees were established in 1995, IDEM has not increased the Title V fees and has used both Federal grants and state general funds to perform some of the activities listed in 502 (b)(3)(A)
5. During this ten year period the Federal Funds to support the air program have been decreasing, and Title V Fee collections, which have generally been between \$10.7 and \$10.9 million per year dropped to about \$10.5 million in FY 04 and FY05 and are projected to drop to the \$9.9 million level in the future. Some of these fee reductions are due to the success of IDEM's air pollution control and pollution prevention programs:
 - Lake and Porter Counties are no longer severe ozone Nonattainment areas—this change has reduced the annual cap from \$200,000 to \$150,000 for seven facilities reducing expected revenues by \$350,000 per

year. In addition, NIPSCO stopped operating a power plant reducing fee income by \$200,000 per year

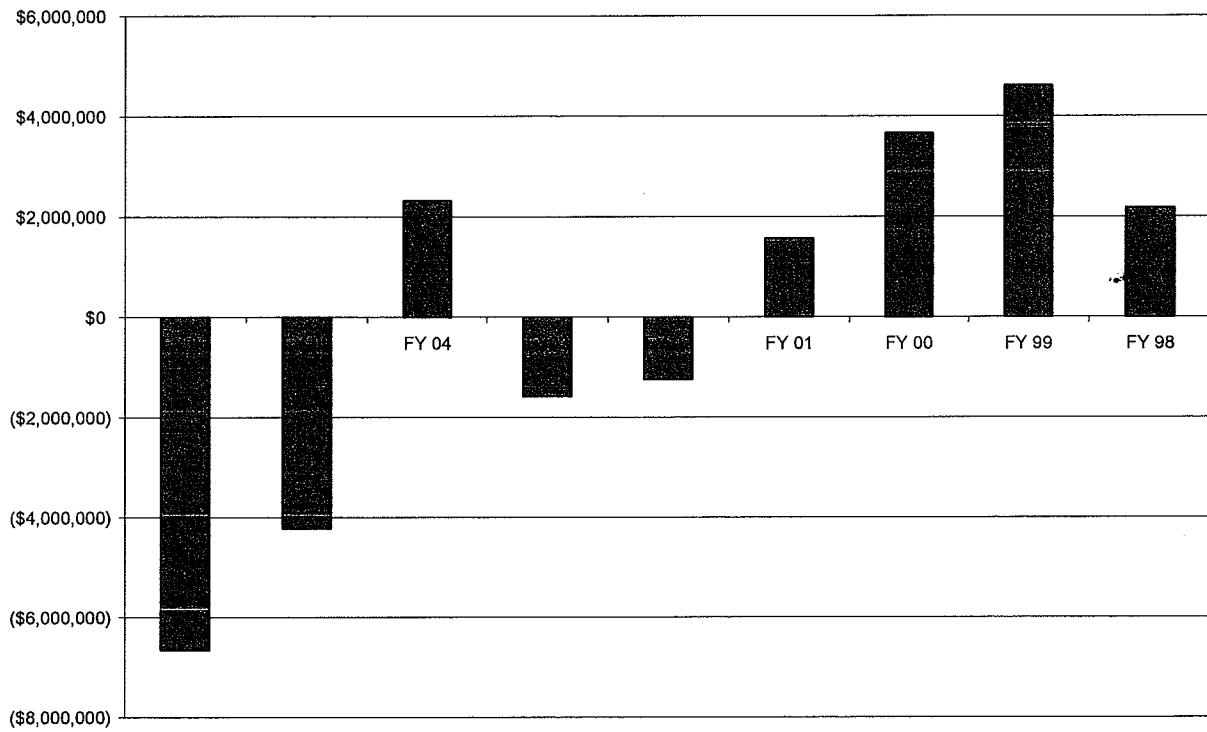
- A number of smaller facilities have taken advantage of pollution prevention opportunities to opt out of the air regulatory program (and thus are not subject to any fees) or to obtain a lower level permit with smaller fees.
6. While revenues to the air program from all sources are declining, the total workload and cost per position have increased over the past 10 years. For example:
- EPA has promulgated over ninety new hazardous air pollutant regulations;
 - IDEM has submitted petitions to redesignate fourteen counties from Nonattainment to attainment for the ozone standard removing significant federal restrictions on new emission sources;
 - IDEM is also addressing the speed of the permit process and has now issued 778 of the 791 Title V permits required in Indiana (We now expect that only 5 initial permits will not be issued by the end of 2006).
 - IDEM is working on minimizing the impact of the PM_{2.5} standard by working with EPA and in the courts to limit Nonattainment designations to the appropriate areas and to understand the activities causing the remaining areas to exceed the standard so that Hoosiers can have clean air without unnecessary restrictions on their activities.
7. Unlike a business, or an actual budgeting system, the State Auditor currently reports only the "check book balance" for IDEM's Funds. Since the Air Permit Fee Fund receives its income in the 2nd quarter of the year, the June 30 balance is very close to the highest check book balance of the year. In simple terms, this is like looking at your bank balance on pay day before the checks that you have written to pay your bills reach the bank and are subtracted from your account, only there is essentially one payday a year.
8. Due to the State's cash basis accounting system, the Title V fund has accumulated significant unpaid obligations. For example, while the June 30, 2006 cash fund balance is \$10,039,779, the unobligated fund balance is actually negative (\$547,405) and this does not include \$6,131,187 in contractual obligations outstanding on June 30, 2006. In other words, if the fund had to actually pay all of its obligations right before the FY07 fees are received, the fund would have a \$6,678,592 debt—because the State is prohibited from having debt, the obligations would simply go unpaid.

9. As Commissioner, it is my duty to adjust the Title V fees to a level that complies with the Clean Air Act requirements. I am proud of the efficiencies that we are implementing at IDEM and hope to be able to avoid additional increases in the near future, but I must make the fund solvent again.
10. In the first months of our administration, IDEM formed an "Efficiency and Streamlining Task Force" to find ways to improve the Agency. One of the activities of the task force included widely distributing a questionnaire to various customers of the Agency. A recurring recommendation was that "All air permits should be written by in state permit writers." As a former consultant who represented clients to IDEM's out of state permit writers, I am sympathetic to these recommendations and made bringing core regulatory functions, including air permit writing back to the Agency one of IDEM's metrics. In addition to improving service and eventually reducing costs, this commitment allows IDEM to continue to reduce overall costs by improving efficiency and then reassigning the people freed up by the efficiency to these in-sourced functions.
11. I can understand the confusion caused by my simplification of this process to "Therefore approximately \$2 million of the requested increase would pay for the cost of hiring additional staff for the Permits Branch so that OAQ can eliminate the reliance on outside contractors for writing permits." I believe that bringing this work in-house will eventually decrease costs as this \$2 million should allow us to stop spending over \$3 million per year in contract services and eliminate duplication caused by the need for IDEM staff to review contractor work product.
12. Historically the Title V fund has been paying for the contracted permit writing services after they are complete and under normal business accounting systems (accrual accounting) is actually over \$6 million in debt. IDEM pays its own staff each pay period for work in progress. This means that for IDEM to bring the permit work in house it must both pay off its \$6,678,592 debt and pay for the IDEM permit work as it happens. We have established a transition plan to accomplish this task that can be funded with the estimated \$2.5 million per year that the proposed Title V fund permit fee increase is expected to generate.
13. An alternative, and in hind sight much clearer, way to present this issue is that the Title V fund is currently \$6,678,592 in debt and IDEM needs to increase permit fees to pay off that debt.
14. The Air Permit Fee Fund and all other IDEM funds and expenditures are routinely audited by the State Board of Accounts every two years.

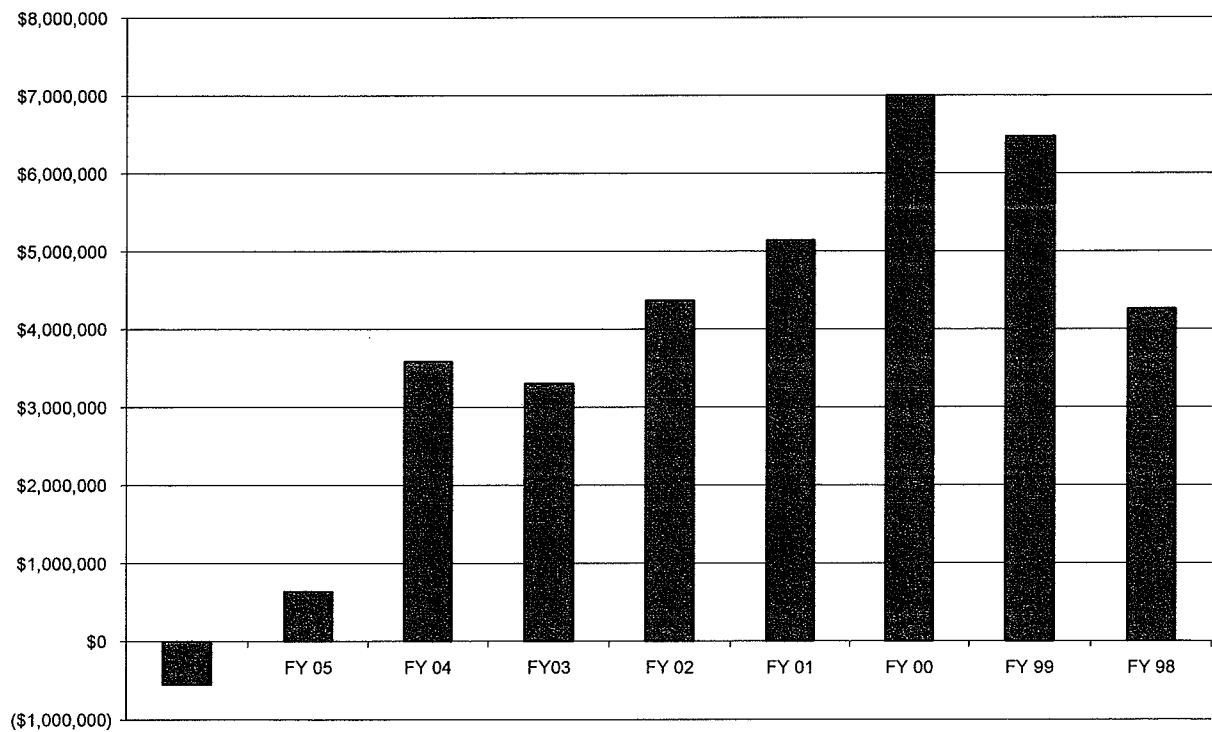
Air Permit Fee Assets & Liabilities



Net Air Permit Fee Minimum Fund Balance Including Contractural Obligations



Net Minimum Air Permit Fund Balance Without Contractural Obligations



Financial Information

Air Program Permit Fee Collections and Revenues Expenditures

IDEM expended \$5,684,065 in salary and benefits in FY06. This includes salary and benefits paid to Air Permit Branch staff and to staff supporting the Title V Program, such as our Compliance Branch. In addition, \$3,174,820 was spent on permit review contract assistance during FY06. Title V Operating Permit Program expenditures totaled \$12,204,498 in FY06. The OAQ collected \$10,715,061 in fees and \$196,722 in interest during FY06. No permit fees were refunded under 326 IAC 2-1.18(m) and (n) in FY06 because there were no late permit decisions. The Auditor's Cash Balance Report is provided below.

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT - TITLE V: 2760 FUND ANALYSIS REPORT AS OF JUNE 30, 2006	
CASH BALANCE, 6/30/06	\$11,273,380
REVENUE:	
FEE'S	\$10,715,061
DED SHARE FED INDIRECT COST	\$67,469
MISCELLANEOUS	\$1665
INTEREST	\$196,722
REVENUE 7/1/05-6/30/06	\$10,970,897
TOTAL REVENUE PLUS CASH BALANCE	\$22,244,277
EXPENSES:	
PERSONAL SERVICES	\$5,684,065
OTHER SERVICES	\$142,720
CONTRACT SERVICES	\$3,174,820
SUPPLIES	\$54,107
EQUIPMENT	\$151,046
MISCELLANEOUS	\$8,411
REV ADJ (PRIOR YEAR)	\$1500
DED TRF TO GENERAL FUND	\$0
GRANTS	\$318,628
ADMIN SUPPORT	2,631,589
IN-STATE TRAVEL	\$24,428
OUT-OF-STATE TRAVEL	\$10,193
TOTAL EXPENSES 7/1/05-6/30/06	\$12,204,498
AUDITOR'S FUND BALANCE	\$10,039,799
OUTSTANDING OBLIGATIONS	
CONTRACT SERVICES	\$6,131,187
SUPPLIES	\$0
EQUIPMENT	\$44,516
GRANTS	\$96,307
TOTAL OUTSTANDING OBLIGATIONS	\$6,272,005
AVAILABLE CASH BALANCE	\$3,767,744

Title V Fund Review

IDEM is required to review the balance of the trust fund as of July 1 and determine, once obligated funds are subtracted, whether the balance of the fund exceeds \$3,000,000. If that amount is exceeded, IDEM must adjust the fee payment schedule for the next billing cycle to return any excess trust fund monies. The IDEM Controller has conducted this review, furnished below, and has determined that the unobligated fund balance in the Title V fund was less than \$3,000,000 as of July 1, 2006.

Indiana Department of Environmental Management Analysis of Title V Cash Balance and Available Funds	
Fund Balance per Auditor of State 6/30/2006	\$10,039,779
Less Outstanding Obligations (Encumbrances at the Auditor of State)*	(\$70,677)
Less Estimated FY 07 Charges for Agency Wide Services	(\$2,033,351)
Less FY 06 fund balance needed to carry program until FY 07 fees are received	(\$7,883,156)
Unobligated Fund Balance at 6/30/2006	(\$547,445)
* Does not include \$6,131,187 in contractual liabilities as of 6/30/2006	
**Permits are not billed until the third quarter of the fiscal year. Therefore there must be sufficient funds at the beginning of the fiscal year to carry the operating center for at least ¾ of the fiscal period.	
***Transfer of dedicated funds to the general fund did not occur in FY06. This may or may not occur in FY 07. It will probably be dependent on whether a general fund deficit is anticipated at 6/30/07.	

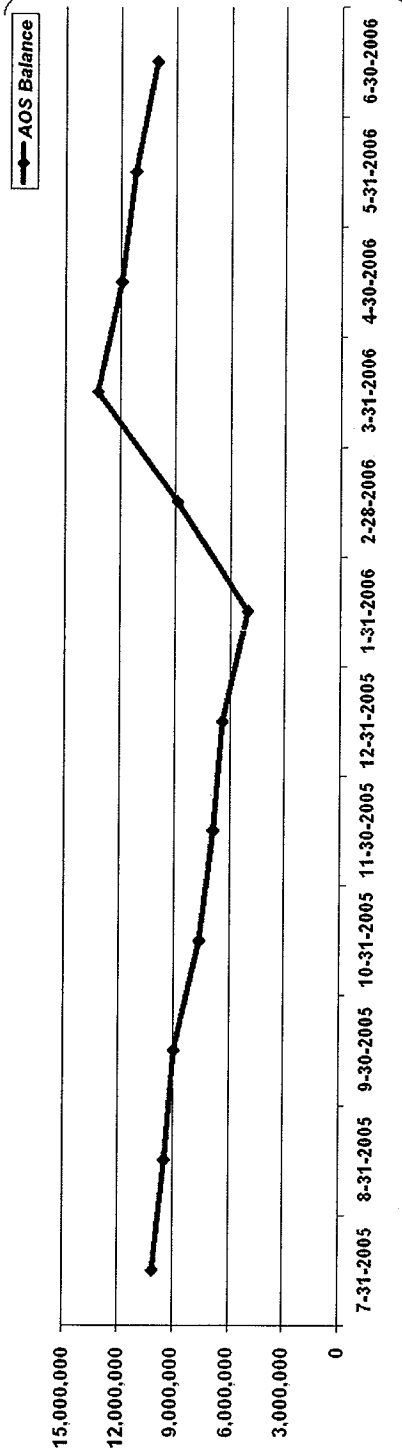
Prepared November 22, 2006

[illegible]

2760 - Title V Air Permit

FY 2006

	7-31-2005	8-31-2005	9-30-2005	10-31-2005	11-30-2005	12-31-2005	1-31-2006	2-28-2006	3-31-2006	4-30-2006	5-31-2006	6-30-2006
AOS Balance	10,104,708	9,472,655	8,970,170	7,606,739	6,888,914	6,409,201	5,046,007	8,860,306	13,260,833	11,978,893	11,209,886	10,039,779



FY 2006												
	7-31-2005	8-31-2005	9-30-2005	10-31-2005	11-30-2005	12-31-2005	1-31-2006	2-28-2006	3-31-2006	4-30-2006	5-31-2006	6-30-2006
Available Cash Balance	5,160,120	5,106,237	2,670,495	391,762	(1,197,329)	(1,170,121)	(2,876,751)	889,278	5,464,556	4,763,721	4,182,213	3,767,774

